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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte CHRISTOPHER P. BERGH, NANCY BENOVICH
GILBY, CHARLES EVETT, PETER FEARAY, GREGORY
ERMAN, DAVID TIU, and JOHN MANDEL

Appeal 2011-000757
Application 09/575, 283
Technology Center 3600

Before, MURRIEL E. CRAWFORD, ANTON W. FETTING, and
JOSEPH A. FISCHETTI, *Administrative Patent Judges*.

FISCHETTI, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants seek our review under 35 U.S.C. § 134 of the Examiner's final rejection of claims 29-51. We have jurisdiction under 35 U.S.C. § 6(b). (2002)

SUMMARY OF DECISION

We AFFIRM.

THE INVENTION

Appellants claim a system and method for processing customer leads. (Specification 1:7)

Claim 29, reproduced below, is representative of the subject matter on appeal.

A method for processing customer leads comprising:
configuring a lead processing system comprising a networked computer system,
including
accepting a specification of a plurality of users of the system, and
accepting a specification of a plurality of rules for determining at least one action of the lead processing system with respect to the users, with the plurality of rules including rules based on attributes of user relationships, wherein the plurality of rules includes global rules and user specific rules;
accepting at least one customer lead;
routing the at least one customer lead through the lead processing system in accordance with the rules, wherein the lead processing system includes a lead management server and a plurality of secondary lead management servers, wherein the plurality of secondary lead

management servers are configured to couple one or more computerized information management systems to the lead management server; receiving, from at least one of the plurality of secondary lead management servers, feedback from at least one of the users, the feedback indicating whether the lead should be accepted, rejected or forwarded to another one of the plurality of users; re-routing the at least one customer lead, based on the plurality of rules and the received feedback from the at least one of the plurality of users to the another one of the users; and tracking and reporting an advancement of the at least one customer lead through the lead processing system.

THE REJECTION

The Examiner relies upon the following as evidence of unpatentability:

Anderson US 6,078,892 Jun. 20, 2000
Griggs, Robyn. "Give us leads! Give us leads!" Sales and Marketing Management. New York: Jul. 1997. Vol 149, Iss. 7; p. 66.

Netscape and Aurum Extend Enterprise-level Sales and Marketing Applications to the Internet.

<http://form.netscape.comnewsref/pr/newsrelease92.html> Feb 20, 1996.

The following rejection is before us for review.

The Examiner rejected claims 29-51 under 35 U.S.C. 103(a) as being unpatentable over Anderson in view of Griggs and further in view of Netscape/Aurum.

ISSUE

The issue of obviousness turns in part on whether Griggs in disclosing the determination of whether a lead is hot or cold, discloses rating a lead such that as a matter of common sense the lead would be passed along if sufficiently hot given that Griggs discloses assigning each lead to the appropriate salesperson or channel partner.

FINDINGS OF FACT

We find the following facts by a preponderance of the evidence:

1. We adopt the Examiner's findings as set forth on pages 4-13 of the Answer.
2. Appellants' Specification does not specifically define the term rule, nor does it utilize the term contrary to its customary meaning.
3. The ordinary and customary definition of the term rule as defined by Merriam Webster's Collegiate Dictionary (10th ed.) is: "a prescribed guide for conduct or action". <http://www.merriam-webster.com/dictionary/rule>
4. Anderson discloses scores for each customer record are computed, preferably, in accordance with an external process which compares customer descriptive information in the customer record with the products and then returns as scores values indicating whether a match would likely exist between the customer record and the products, i.e., returns scores indicating whether a customer associated with the record is likely to buy the products. The customer descriptive information may include, for example, demographic data (e.g., name, address, sex, age of a customer), data describing the nature and

peculiarities of a customer's business (e.g., annual sales, geographic coverage, size), or any other information which might be important in assessing a customer's affinity for a particular product.

(Col. 6, l. 60; 7, 1.7).

5. Anderson further discloses that

“[t]he scores may, for example, be computed by developing statistical models with techniques such as logistic regression or rule induction, or techniques based on various forms of neural networks. Such models typically relate prospect demographics (independent explanatory variables) to "propensity to buy" (dependent, business variable) using historical data collected through past marketing campaigns.”

(Col.7, ll. 8-14).

6. The goal of Anderson's scoring system is to allow a predictability of a person buying a product, i.e., “[t]he chance that a client in his fifties would buy and IRA....” (Col.5)

7. Griggs discloses “... leads are then qualified by phone, fax, or on the Internet. Based on this information, the system assigns each lead a "grade" and priority status, then directs it to the appropriate salesperson or channel partner.” (Griggs, p. 2, ¶ 7)

ANALYSIS

We affirm the rejection of claims 29-51.

Claims 29-31, 35-36, 39-41, 45-46, and 49-51.

Initially, we note that the Appellants argue claims 29-31, 35-36, 39-41, 45-46, and 49-51 together as a group indicating that claim 29 is representative. Thus, claim 29 decides the appeal of these claims.

Appellants argue that:

Anderson describes computing a score relating a customer to a product. Neither in this paragraph nor anywhere else does Anderson describe global rules belonging to a plurality of rules for determining at least one action of the lead processing system with respect to the users, as alleged by the examiner. Instead, Anderson merely describes computing a relationship between a product and a set of customers *before* a user of the system is involved. Claim 29 specifically calls for the rules to determine an action with respect to the users, which is not suggested by Anderson.

We disagree with Appellants. First, we find that the scores which are computed in Anderson are rules. This is because Appellant's Specification does not specifically define the term rule, nor does it utilize the term contrary to its customary meaning. (FF 2). We further find that the ordinary and customary definition of the term *rule* is: "a prescribed guide for conduct or action". (FF 3). Moreover, Anderson's disclosed score is a rule because it is a guide for determining at least one action, namely a lead for a sale, based on the chance that someone will buy a product. (FF 6). We construe global rules to be those such as is disclosed in Anderson as prospect demographics rules which use independent explanatory variables and thus are global in nature. We further construe specific rules as the disclosed dependent, business variables in Anderson which use historical data collected through past marketing campaigns.

We further do not find persuasive Appellants' argument that the "relationship between a product and a set of customers [occurs] *before* a user of the system is involved" (Appeal Br. 10), because there is nothing in the

claim that requires sequencing between the rules calculation and *when* the users employs them.

Appellants arguments to Griggs, state:

...the ratings as described by Griggs appear to have no bearing on whether a lead is accepted, rejected, or forwarded, because "hot" and "warm" leads are both "sent to the field," and even "cold" leads are also "sent to salespeople." Nothing about a system where all of the leads are rated and sent to salespeople can be taken to be equivalent to receiving feedback "indicating whether the lead should be accepted, rejected or forwarded to another one of the plurality of users," as required by the claim.

(Appeal Br. 11).

We disagree with Appellants because we find that the determination of whether a lead is hot or cold is a rating. As such, each rating has intrinsic value as a directive of how valuable the lead is, and using common sense a person with ordinary skill in the art would understand that if a lead was marked as cold it should not be acted upon nor passed on, and vice versa. We find this given that Griggs discloses assigning each lead to the appropriate salesperson or channel partner (FF 7). Thus, a viable lead would be assigned/routed until it was acted on. The application of common sense may control the combining of references.

Common sense teaches, however, that familiar items may have obvious uses beyond their primary purposes, and in many cases a person of ordinary skill will be able to fit the teachings of multiple patents together like pieces of a puzzle.

KSR Intern, Co. v. Teleflex Inc., 550 U.S. 398, 419 (2007).

Finally, we find no error with the Examiner's taking of Official Notice to establish that it would have been obvious to one of ordinary skill in the art at the time of the invention to employ client-server based technology. (Answer 6). In conjunction with this finding, the Examiner further found that the taken Official Notice "enhances the system by providing centralized multi-user functionality" (Answer 6), further buttressing the Examiner's *prima facie* case¹.

In response, Appellants argue that "absent sound technical and scientific reasoning for official notice, the recitation of this type of technology...", the official notice cannot stand (Appeal Br. 14). However this is not the test by which Official Notice is properly challenged.

Rather, the test under our review here is whether Appellants have specifically pointed out the supposed errors in the Examiner's taking of Official Notice, "includ[ing] stating why the noticed fact is not considered to be common knowledge or well-known in the art. See 37 CFR § 1.111(b)." MPEP § 2144.03(C). An adequate traverse must contain adequate information or argument to create on its face a reasonable doubt regarding the circumstances justifying Examiner's notice of what is well known to one of ordinary skill in the art. *In re Boon*, 439 F.2d 724, 728 (CCPA 1971). That has not been done here. When an Appellant does not seasonably traverse a well-known statement during examination, the object of the well-known statement is taken to be admitted prior art. *In re Chevenard*, 139 F.2d 711 (CCPA 1943).

¹ This finding is made in contradiction to Appellants' assertion that, "The examiner makes no attempt to provide supporting facts or reasoning for the official notice." (Appeal Br. 14)

Claims 32-34, 42-44.

Appellants maintain that claim 32 is representative. Thus, claims 33, 34 and 42-44 rise or fall with claim 32.

Claim 32 recites in pertinent part, wherein the rules comprise attachment rules for determining additional information to be attached to the leads prior to further routing of the lead.

Appellants argue that “Anderson [fails to] describe this temporal limitation involving attaching additional information to a lead as it is routed through the system”. (Appeal Br. 16).

We disagree with Appellants because nothing in the claim prohibits the additional information from being included at the source when the lead information is generated as taught by Anderson at column 8, lines 49-67 as found by the Examiner.

Claims 37-38, 47-48.

Appellants maintain that claim 37 is representative. Thus claims 38, 47-48 rise or fall with claim 37.

Appellants argue that “...nothing about the percentage of leads contacted says anything about the performance of the source of any of the leads, as required by the claim.” (Appeal Br. 18)

We disagree with Appellants because we find that Griggs’ disclosure of tracking 91.5% of leads based on contacts made is a metric of performance based on contacts made. The source of the leads is known given that in Griggs the system assigns each lead to the appropriate salesperson or channel partner. (FF 7).

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CONCLUSIONS OF LAW

We conclude the Examiner did not err in rejecting claims 29-51.

DECISION

The decision of the Examiner to reject claims 29-51 is AFFIRMED.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

MP